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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1H-2007-718

IAN OTTOWELL, R.C.P.
233 Via Ballena
San Clemente, CA 92672

A C C U S A T I O N

Respiratory Care Practitioner License No. 5842

Respondent.

Complainant alleges:

PARTIES

1. Stephanie Nunez (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Respiratory Care Board of California, Department of Consumer Affairs.

2. On or about June 28, 1985, the Respiratory Care Board issued Respiratory Care Practitioner License Number 5842 to IAN OTTOWELL, R.C.P. (Respondent). The Respiratory Care Practitioner License was in full force and effect at all times relevant to the charges brought herein and expired on February 29, 2008.

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JURISDICTION

3. This Accusation is brought before the Respiratory Care Board (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118 of the Code states, in pertinent part:

“....”

“(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground

“....”

5. Section 3710 of the Code states: “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

6. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

7. Section 3750 of the Code states, in pertinent part:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“....”

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“....”

1 “(g) Conviction of a violation of any of the provisions of this chapter or
2 of any provision of Division 2 (commencing with Section 500), or violating, or
3 attempting to violate, directly or indirectly, or assisting in or abetting the violation
4 of, or conspiring to violate any provision or terms of this chapter or of any
5 provision of Division 2 (commencing with Section 500).

6 8. Section 3752 of the Code states:

7 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
8 made to a charge of any offense which substantially relates to the qualifications,
9 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
10 the meaning of this article. The board shall order the license suspended or revoked, or
11 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
12 conviction has been affirmed on appeal or when an order granting probation is made
13 suspending the imposition of sentence, irrespective of a subsequent order under Section
14 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
15 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
16 accusation, information, or indictment.”

17 9. Section 3752.5 of the Code states:

18 “For purposes of Division 1.5 (commencing with Section 475), and this
19 chapter, a crime involving bodily injury or attempted bodily injury shall be
20 considered a crime substantially related to the qualifications, functions, or duties
21 of a respiratory care practitioner.”

22 10. California Code of Regulations, title 16, section 1399.370, provides in
23 pertinent part:

24 “For the purposes of denial, suspension, or revocation of a license, a crime or act
25 shall be considered to be substantially related to the qualifications, functions or duties of
26 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to
27 perform the functions authorized by his or her license or in a manner inconsistent with the
28 public health, safety, or welfare. Such crimes or acts shall include but not be limited to

1 those involving the following:

2 “(a) Violating or attempting to violate, directly, or indirectly, or assisting
3 or abetting the violation of or conspiring to violate any provision or term of the
4 Act.

5 “....”

6 “(c) Conviction of a crime involving driving under the influence or
7 reckless driving while under the influence.

8 “....”

9 COST RECOVERY

10 11. Section 3753.5, subdivision (a) of the Code states:

11 "In any order issued in resolution of a disciplinary proceeding before the board,
12 the board or the administrative law judge may direct any practitioner or applicant found to have
13 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
14 investigation and prosecution of the case."

15 12. Section 3753.7 of the Code states:

16 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall
17 include attorney general or other prosecuting attorney fees, expert witness fees, and other
18 administrative, filing, and service fees."

19 13. Section 3753.1 of the Code states:

20 "(a) An administrative disciplinary decision imposing terms of probation may
21 include, among other things, a requirement that the licensee-probationer pay the monetary costs
22 associated with monitoring the probation. "

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1 **CAUSE FOR DISCIPLINE**

2 **(Conviction of Crimes)**

3 12. Respondent is subject to disciplinary action under sections 3750,
4 subdivisions (d) and (g), 3752, and 3752.5, of the Code, and California Code of Regulations, title
5 16, section 1399.370, in that he was convicted of crimes substantially related to the
6 qualifications, functions, or duties of a respiratory care practitioner. The circumstances are as
7 follows:

8 **January 30, 2008, Conviction**

9 A. On or about August 1, 2007, at approximately 5:45 p.m., officer from the
10 Orange County Sheriff's Department responded to a two motor vehicle crash. The vehicle
11 respondent was driving had collided with another stopped vehicle from behind, injuring
12 respondent, respondent's passenger, and the driver and passenger of the other vehicle. All parties
13 were taken to the hospital where it was revealed that respondent had been driving with a .26
14 blood alcohol level.

15 B. On or about October 25, 2007, in the case of *The People of the State of*
16 *California v. Ian Ottowell*, case number 07SF1075, before the Superior Court of California,
17 County of Orange, respondent was charged with violating Vehicle Code section 23153,
18 subdivisions (a) [driving under influence of alcohol causing bodily injury] and (b) [driving with
19 blood alcohol .08% or more causing bodily injury]. It was further alleged pursuant to Vehicle
20 Code section 23538(b)(2), that respondent had a blood alcohol concentration of .20 percent and
21 more, by weight.

22 C. On or about January 30, 2008, pursuant to a plea bargain, respondent pled
23 guilty to violating Vehicle Code section 23153, subdivision (a). Among other things, respondent
24 was placed on three years formal probation, ordered to serve 120 days in county jail and pay
25 restitution and fines.

26 **October 30, 2006, Conviction**

27 _____A. On or about September 25, 2006, in Orange County, respondent willfully
28 and unlawfully inflicted corporal injury, resulting in a traumatic condition, upon an individual

1 with whom he was cohabitating.

2 B. On or about October 24, 2006, in the case of *The People of the State of*
3 *California v. Ian Ottowell*, case number 06NM12779, respondent was charged with violating
4 Penal Code section 273.5(a) [domestic battery with corporal injury].

5 C. On or about October 30, 2006, respondent pled guilty to violating Penal
6 Code section 273.5(a). Among other things, respondent was placed on 3 years informal
7 probation, ordered to pay restitution and fines, and perform 30 days of community service.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

11 1. Revoking or suspending Respiratory Care Practitioner License No. 5842,
12 issued to Ian Ottowell, R.C.P.;

13 2. Ordering Ian Ottowell, R.C.P. to pay the Respiratory Care Board the costs
14 of the investigation and enforcement of this case, and if placed on probation, the costs of
15 probation monitoring; and,

16 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: July 17, 2008
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22 Original signed by Liane Zimmerman for:
23 STEPHANIE NUNEZ
24 Executive Officer
25 Respiratory Care Board of California
26 Department of Consumer Affairs
27 State of California
28 Complainant